

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MICHAEL BEACH,

Plaintiff,

v.

TUBULAR STEEL, INC.,

Defendant.

Case No. 07-cv-554-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Michael Beach's oral motion to dismiss this case without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). Rule 41(a)(2) provides that only the Court may dismiss an action after an adverse party has filed an answer or motion for summary judgment and in the absence of a stipulation of dismissal of an entire case from all the parties. The Court may also impose such terms and conditions as it deems proper, and normally those terms and conditions include paying the defendants' expenses incurred in defending the suit. *Marlow v. Winston & Strawn*, 19 F.3d 300, 303 (7th Cir. 1994). In this case, the defendant has requested its costs in defending this suit as a condition of dismissal, and the plaintiff has agreed that such an award is proper. The Court therefore **GRANTS** the motion to dismiss, **DISMISSES** this case **without prejudice** and **with costs**, and **DIRECTS** the Clerk of Court to enter judgment accordingly. The Court **ORDERS** the plaintiff to pay the defendant's bill of costs within ten days after its submission.

IT IS SO ORDERED.

DATED: October 15, 2007

s/ J. Phil Gilbert

J. PHIL GILBERT
DISTRICT JUDGE